

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION**

SAMMIE M. GARCIA, # 675975,	§	
Plaintiff,	§	
	§	
v.	§	3:15-CV-0669-D
	§	
GARY FITZSIMMONS, et al.,	§	
Defendants.	§	

ORDER

After making an independent review of the pleadings, files, and records in this case, and the amended findings, conclusions, and recommendation of the magistrate judge, the court concludes that the amended findings and conclusions are correct. It is therefore ordered that the findings, conclusions, and recommendation of the magistrate judge are adopted, and this action is summarily dismissed without prejudice for want of jurisdiction under Fed. R. Civ. P. 12(h)(3).


The court prospectively certifies that any appeal of this action would not be taken in good faith. *See* 28 U.S.C. § 1915(a)(3); Fed. R. App. P. 24(a)(3). In support of this finding, the court adopts and incorporates by reference the magistrate judge's amended findings, conclusions, and recommendation. *See Baugh v. Taylor*, 117 F.3d 197, 202 n.21 (5th Cir. 1997). Based on the amended findings and recommendation, the court concludes that any appeal of this action would present no legal point of arguable merit and would, therefore, be frivolous. *Howard v. King*, 707 F.2d 215, 220 (5th Cir. 1983).

If plaintiff appeals, he may challenge this certification by filing a separate motion to proceed *in forma pauperis* on appeal with the Clerk of the Court, United States Court of Appeals for the Fifth

Circuit. *See Baugh*, 117 F.3d at 202; Fed. R. App. P. 24(a)(5).

SO ORDERED.

October 30, 2015.



SIDNEY A. FITZWATER
UNITED STATES DISTRICT JUDGE